

ORIGINAL

FILED

07 MAR 30 AM 11:19
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

(B) AD
Jill WO
Jill WO
BZ

1 WILLIAM R. TAMAYO, #084965(CA)
 2 JONATHAN T. PECK, #12303 (VA)
 2 EVANGELINA FIERRO HERNANDEZ, #168879 (CA)
 3 EQUAL EMPLOYMENT OPPORTUNITY
 3 COMMISSION
 4 San Francisco District Office
 4 350 The Embarcadero, Suite 500
 5 San Francisco, California 94105
 5 Telephone: (415) 625-5622
 5 Facsimile : (415) 625-5657
 6 Evangelina.Hernandez@eeoc.gov

E-filing

7 Attorneys for Plaintiff

9
 10 **UNITED STATES DISTRICT COURT**
 11
 12 **NORTHERN DISTRICT OF CALIFORNIA** **BZ**

13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

(C) EQUAL EMPLOYMENT OPPORTUNITY
 COMMISSION,)
)
 Plaintiff,)
 v.)
)
)
 KMAN ENTERPRISES INCORPORATED)
 d/b/a QUALITY INN PT. RICHMOND and)
 PT. RICHMOND MANAGEMENT, INC.,)
 Defendants.)

C 07 18057
 CIVIL ACTION NO.

C O M P L A I N T
 Civil Rights - Employment Discrimination
 Age Discrimination in Employment Act and
 Title VII of the Civil Rights Act

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act of 1967, as amended, (ADEA) and Title VII of the Civil Rights Act of 1964, as amended (Title VII), and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of age and race and to provide appropriate relief to Charging Party Lillie Dozier, who was adversely affected by such practices. Plaintiff Equal Employment Opportunity Commission (the Commission) alleges that the defendants unlawfully discriminated against Ms. Dozier by subjecting her to differential

///

COMPLAINT

1 terms and conditions of employment and termination based on her age, 67, and race, African-
 2 American.

3 **JURISDICTION AND VENUE**

4 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
 5 1343, and 1345. This action is authorized and instituted pursuant to Section 7(b) of the ADEA,
 6 29 USC § 626(b), which incorporates by reference Section 16(c) and 17 of the Fair Standards Act
 7 of 1938 ("FLSA"), as amended, 29 U.S.C. §§ 216(c) and 217, Sections 706 (f) (1) and (3) of
 8 Title VII, 42 U.S.C. §2000e-5 (f) (1) and (3) and Section 102 of the Civil Rights Act of 1991, 42
 9 U.S.C. §1981a.

10 2. The employment practices alleged to be unlawful were committed in the City of
 11 Richmond and County of Contra Costa, California, which is within the jurisdiction of the United
 12 States District Court for the Northern District of California.

13 **INTRA-DISTRICT ASSIGNMENT**

14 3. This action is appropriate for assignment to the Oakland Division because the
 15 unlawful employment practices were committed within the County of Contra Costa, California.

16 **PARTIES**

17 4. The Commission is the agency of the United States of America charged with the
 18 administration, interpretation, and enforcement of the ADEA and is expressly authorized to bring
 19 this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of
 20 Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat.
 21 2705. The Commission is also charged with the administration, interpretation, and enforcement
 22 of Title VII and is expressly authorized to bring this action by Sections 706 (f) (1) and (3) of Title
 23 VII, 42 U.S.C. §2000e-5 (1) and (3).

24 5. At all relevant times, Defendant KMAN Enterprises Inc., d/b/a/ Quality Inn Pt.
 25 Richmond has continuously been doing business in the State of California and in the City of
 26 Richmond and County of Contra Costa, California, and has continuously employed at least
 27 fifteen employees.

28 ///

COMPLAINT

6. At all relevant times, Defendant Pt. Richmond Management, Inc., has continuously been doing business in the State of California and in the City of Richmond and County of Contra Costa, California, and has continuously employed at least fifteen employees.

7. At all relevant times, Defendants have continuously been employers engaged in an industry affecting commerce within the meaning of Section 701(b), (g), and (h) of Title VII, 42 U.S.C. §2000e-(b), (g), and (h).

8. At all relevant times, Defendants have continuously been employers within the meaning of Section 11 of the ADEA, 29 U.S.C. §630(b).

9. Prior to the institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADEA through informal methods of conciliation, conference and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626 (b).

STATEMENT OF CLAIMS

10. More than thirty days prior to the institution of this lawsuit, Ms. Dozier filed a charge of discrimination with the Commission alleging violations of ADEA and Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

11. Since at least November 2004, Defendants have engaged in unlawful employment practices at its Richmond, California location in violation of Section 4(a), of the ADEA, 29 U.S.C. §623(a), and of Section 703 (a) of Title VII, 42 U.S.C. §2000e-2 (a). These practices include subjecting Ms. Dozier to disparate terms and conditions of employment, and unlawful terminating Ms. Dozier based on her age and race.

12. The effect of the practices complained of in Paragraph 10, above, has been to deprive Ms. Dozier of equal employment opportunities and to otherwise adversely affect her employment status as an employee because of her age and race.

13. The unlawful employment practices complained of in Paragraph 10, above, were intentional.

14. The unlawful employment practices complained of in Paragraph 10, above, were and are done with malice or reckless indifference to the federally protected rights of Ms. Dozier.

15. The unlawful employment practices complained of in Paragraph 10, above, were and are willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626 (b).

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully request that this Court:

A. Grant a permanent injunction enjoining Defendants, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in any employment practices which discriminate on the basis of age against individuals 40 years of age and older and race.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for individuals 40 years of age and older and for black employees and which eradicate the effects of its past and present unlawful employment practices.

C. Grant a judgment requiring Defendants to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest, to Ms. Dozier as a result of the acts complained of above.

D. Order Defendants to make whole Ms. Dozier by providing appropriate compensation for other past and future pecuniary losses resulting from the unlawful employment practices described above, including medical expenses, in amounts to be determined at trial.

E. Order Defendants to make whole Ms. Dozier by providing compensation for past and future non-pecuniary losses caused by the above unlawful conduct, including pain and suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay Ms. Dozier punitive damages for its malicious and reckless conduct described above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper.

H. Award the Commission its costs of this action.

111

111

COMPLAINT

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of facts by its complaints.

RONALD S. COOPER
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Office of the General Counsel
1801 "L" Street NW
Washington, D.C. 20507

DATED: Mar. 29, 2007

WILLIAM R. TAMAYO
Regional Attorney

DATED: Mar 29, 2007

JONATHAN T. PECK
Supervisory Trial Attorney

DATED: Mar. 29, 2007

EVANGELINA F. HERNANDEZ
Senior Trial Attorney

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, California 94105**

Attorneys for Plaintiff

COMPLAINT